

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

OLIN CORPORATION,)	
)	
Plaintiff,)	
v.)	Civil Action No. 84 CIV 1968 (JSR)
)	
LAMORAK INSURANCE COMPANY,)	
)	
)	
Defendant.)	
-----X		
LAMORAK INSURANCE COMPANY)	
f/k/a OneBeacon America Insurance Company)	
)	
Third-Party Plaintiff,)	
)	
v.)	
)	
CERTAIN UNDERWRITERS AT LLOYD’S,)	
LONDON and LONDON MARKET)	
INSURANCE COMPANIES, et al.)	
)	
Third-Party Defendants.)	

**DECLARATION OF RALPH J. LUONGO IN SUPPORT OF LAMORAK INSURANCE
COMPANY’S MOTION FOR PARTIAL SUMMARY JUDGMENT FOR DISMISSAL OF
OLIN’S CLAIM FOR GD-OTS’ CRAB ORCHARD COSTS**

I, Ralph J. Luongo, being of full age, hereby declare pursuant to 28 U.S.C. § 1746:

1. I am an attorney at law licensed to practice in the Commonwealth of Pennsylvania and admitted *pro hac vice* in the above-captioned action to practice before this Court.

2. I am a partner of the law firm Kennedys CMK, LLP, with offices at 1600 Market Street, Suite 1401, Philadelphia, Pennsylvania 19103 and 570 Lexington Avenue, 8th Floor, New York, NY 10022. Kennedys CMK, LLP has been retained by defendant Lamorak Insurance Company (f/k/a OneBeacon America Insurance Company) (“Lamorak”) to represent it in this matter.

3. I submit this Declaration in support of Lamorak's Motion for Partial Summary Judgment for Dismissal of Olin's Claim for GD-OTS' Crab Orchard Costs.

4. My statements in this Declaration are based upon my personal knowledge and also upon my review of documents from the files, pleadings and documents produced in this action.

5. Attached hereto as Exhibit A is a true and correct copy of the *Crab Orchard AUS OU Mediation Statement of the Non-US Mediation Participants Regarding the United States' Share*, dated September 15, 2017 and produced by Olin Corporation ("Olin") in the instant action bearing Bates label 2020OLINCOS_0043109 – 2020OLINCOS_0043180.

6. Attached hereto as Exhibit B is a true and correct copy of the *Mediation Statement of the United States, Group 1 Mediation*, dated September 15, 2017 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0043057 – 2020OLINCOS_0043108.

7. Attached hereto as Exhibit C is a true and correct copy of *Olin Corporation's Group 1 Mediation Position Paper for Crab Orchard National Wildlife Refuge Additional and Uncharacterized Sites Operable Unit*, dated September 15, 2017 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0043882 – 2020OLINCOS_0043939.

8. Attached hereto as Exhibit D is a true and correct copy of *Crab Orchard AUS OU Mediation, GD-OTS' Confidential Mediation Statement*, dated September 15, 2017 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0043181 – 2020OLINCOS_0043271.

9. Attached hereto as Exhibit E is a true and correct copy of the Distribution Agreement between Olin and Primex Technologies, Inc. ("Primex"), dated December 30, 1996 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0043465 – 2020OLINCOS_0043495.

10. Attached hereto as Exhibit F is a true and correct copy of the Assumption of Liability and Indemnity Agreement between Olin and Primex dated December 31, 1996 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0043447 – 2020OLINCOS_0043464.

11. Attached hereto as Exhibit G is a true and correct copy of correspondence from Husch & Eppenger, LLC on behalf of Olin to Miriam L. Cheslin of the United States Department of Justice (“US DOJ”), dated April 24, 2001 and produced by Olin in the instant action bearing Bates label 2018OLINFACSITES00_706378 – 2018OLINFACSITES_00706379.

12. Attached hereto as Exhibit H is a true and correct copy of the Administrative Order on Consent for Remedial Investigation/Feasibility Study, executed in December, 2002 and produced by Olin in this litigation bearing Bates label 2018OLINFACSITES_00143021 – 2018OLINFACSITES_00143088.

13. Attached hereto as Exhibit I are true and correct copies of Olin internal memoranda, dated September 6, 1989 and produced by Olin in the instant action bearing Bates label 2018OLINFACSITES_00707470 – 2018OLINFACSITES_00707473.

14. Attached hereto as Exhibit J is a true and correct copy of Olin’s notice to insurers of potential liability at Crab Orchard, dated December 11, 1990 and produced by Olin in the instant action bearing Bates label 2018OLINFACSITES_00146422 – 2018OLINFACSITES_00146439.

15. Attached hereto as Exhibit K is a true and correct copy of Olin’s Second Amended Complaint filed in the instant action on October 17, 1993.

16. Attached hereto as Exhibit L is a true and correct copy of Olin’s Third Amended Complaint filed in the instant action on June 10, 2010.

17. Attached hereto as Exhibit M is a true and correct copy of Olin’s Fourth Amended Complaint filed in the instant action on October 13, 2017.

18. Attached hereto as Exhibit N is a true and correct copy of this Court’s October 12, 2017 Civil Case Management Plan Regarding the Remanded Sites and All Remaining Sites, ECF. No. 1999.

19. Attached hereto as Exhibit O is a true and correct copy of Olin's October 19, 2017 Rule 26(a) Disclosures.

20. Attached hereto as Exhibit P is a true and correct copy of the August 31, 2018 Olin-Lamorak Settlement Agreement.

21. Attached hereto as Exhibit Q is a true and correct copy of correspondence from Olin to GD-OTS, dated August 30, 2019 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0047353 – 2020OLINCOS_0047394.

22. Attached hereto as Exhibit R is a true and correct copy of correspondence from Olin to Lamorak, dated September 17, 2019 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0000603 – 2020OLINCOS_0000604.

23. Attached hereto as Exhibit S is a true and correct copy of this Court's April 1, 2020 Scheduling Order, ECF No. 2385.

24. Attached hereto as Exhibit T is a true and correct copy of a document titled *Olin v. Lamorak, Current Claim for Remaining Sites in Fourth Amended Complaint, Olin Costs Through December 2016*, which was marked as Exhibit 9 during the deposition of Curtis Richards taken on January 24, 2018.

25. Attached hereto as Exhibit U is a true and correct copy of the deposition transcript of Curtis Richards, taken on January 24, 2018.

26. Attached hereto as Exhibit V is a true and correct copy of the deposition transcript of Curtis Richards, taken on August 14, 2020.

27. Attached hereto as Exhibit W is a true and correct copy of the deposition transcript of Elaine Mills, taken on August 18, 2020.

28. Attached hereto as Exhibit X is a true and correct copy of the deposition transcript of Johnnie M. Jackson, Jr., taken on August 24, 2020.

29. Attached hereto as Exhibit Y is a true and correct copy of the deposition transcript of William Duffin, taken on August 8, 2020.

30. Attached hereto as Exhibit Z is a compilation of true and correct copies of Notices of Liability sent on behalf of GD-OTS to various Potentially Responsible Parties (“PRPs”) and produced by Olin in the instant action bearing Bates labels 2018OLINFACSITES_00137975 – 2018OLINFACSITES_00137978; 2020OLINCOS_0063946 – 2020OLINCOS_0063949; 2018OLINFACSITES_00138676 – 2018OLINFACSITES_00138678;

31. Attached hereto as Exhibit AA are true and correct copies of Lamorak Policy Nos. EY-8057-011; EY-8057-012; and EY-8057-013.

32. Attached hereto as Exhibit BB are true and correct copies of correspondence sent by Olin to Lamorak regarding the “Crab Orchard Future Costs” produced by Olin in the instant action bearing Bates labels 2020OLINCOS_0000451 – 2020OLINCOS_0000453; 2020OLINCOS_0000588 – 2020OLINCOS_0000592; 2020OLINCOS_0000610 – 2020OLINCOS_0000614.

33. Attached hereto as Exhibit CC is a true and correct copy of a document titled *Crab Orchard AUS OU: PRP Mediation Participation, Costs and Remedies by Area*, undated and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0043987 – 2020OLINCOS_0043988.

34. Attached hereto as Exhibit DD is a true and correct copy of correspondence from GD-OTS to various PRPs, dated June 22, 2020 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0069337 – 2020OLINCOS_0069342.

35. Attached hereto as Exhibit EE is a true and correct copy of a document titled *Crab Orchard AUS OU: Mediation Grouping Proposals Received As of March 10, 2016* produced by Olin in the instant action bearing Bates label 2020OLIN_0050542 – 2020OLINCOS_0050547.

36. Attached hereto as Exhibit FF is a true and correct copy of the Settlement Agreement and Mutual Release made as of September 18, 2008 between General Dynamics-OTS and Olin Corporation and bearing Bates label 2020OLINCOS_0050959- 2020OLINCOS_0050960.

37. Attached hereto as Exhibit GG is a true and correct copy of the Settlement Agreement and Mutual Release made as of December 4, 2009 between General Dynamics-OTS and Olin Corporation and bearing Bates label 2020OLINCOS_0039110- 2020OLINCOS_0039116.

38. Attached hereto as Exhibit HH is a true and correct copy of excerpts from the expert report of William Hall, dated January 12, 2018.

39. Attached hereto as Exhibit II is a true and correct copy of excerpts from the deposition transcript of William Hall taken on April 3, 2018.

40. Attached hereto as Exhibit JJ is a true and correct copy of excerpts from the expert report of William Goodfellow, dated March 23, 2018.

41. Attached hereto as Exhibit KK is a true and correct copy of excerpts from the expert report of Neal Brody, dated January 12, 2018.

42. Attached hereto as Exhibit LL is a true and correct copy of excerpts from the supplemental expert report of Thomas Zetlmeisl, dated February 2, 2018.

43. Attached hereto as Exhibit MM is a true and correct copy of excerpts from the deposition transcript of Thomas Zetlmeisl taken on March 22, 2018.

44. Attached hereto as Exhibit NN is a true and correct copy of Olin's Objections and Responses to Lamorak's First Set of Interrogatories Relating to the Crab Orchard Site, dated June 9, 2020.

45. Attached hereto as Exhibit OO is a true and correct copy of correspondence from Stephen A. Dvorkin, on behalf of Olin, to GD-OTS, dated November 9, 2010 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0050724.

46. Attached hereto as Exhibit PP is a true and correct copy of correspondence from GD-OTS to Olin, dated March 4, 2005 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0043880 – 2020OLINCOS_0043881.

47. Attached hereto as Exhibit QQ is a true and correct copy of correspondence from GD-OTS to PRPs, dated October 5, 2015 and produced by Olin in the instant action bearing Bates label 2020OLINCOS_0050404 – 2020OLINCOS_0050486.

48. By virtue of Judge Griesa's management and disposition of Olin's coverage claims one site, or one group of sites, at a time, the Crab Orchard claim was not the subject of discovery and motion practice until 2017.

49. Though Olin did not produce GD-OTS' Mediation document in response to Lamorak's 2017 Remaining Sites discovery, from the very first days of the 2017-2018 proceedings, Olin was deliberately confining its Crab Orchard claim to its own liability and costs, not GD-OTS.

50. This past June, in response to Lamorak's discovery, Olin began a rolling production of an additional 1.46 million pages of Crab Orchard documents.

51. Most of these documents predate the 2017-2018 proceedings in this Court, and all of them were responsive to Lamorak's 2017-2018 Fifteen Remaining Sites discovery.

52. Olin stated its claim, in its papers and by its testimony, under oath.

I declare under penalty of perjury that the foregoing is true and correct.

KENNEDYS CMK, LLP

Dated: November 12, 2020

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*Attorney for Defendant and Third-Party Plaintiff,
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the Declaration of Ralph J. Luongo in Support of Lamorak Insurance Company's Motion for Partial Summary Judgment for Dismissal of Olin's Claim for GD-OTS' Crab Orchard Costs was served on the following counsel of record via electronic mail, this 12th day of November, 2020:

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Date: November 12, 2020

s/ Ralph J. Luongo